

REMARKS

Claims 11-15, 28, 29, 33-36, 40, 43, 44, 47, 49, 50, 70, 72, 73, 76-78, 85, 88, and 90-117 are pending.

Claim 44 has been amended to correct typographical errors, so the scope of the amended claim recitations would not be narrowed.

Claim Objection

Claim 44 was objected to because of the mis-spelling of “massaging”. The typographical errors have been corrected in lines 4 and 10 of claim 22. Withdrawal of the objection is requested.

Claim Rejections -- 35 U.S.C. 103

Applicant respectfully traverses the obviousness rejection of claims 10-15, 28, 29, 33-36, 40, 43, 44, 47, 49, 50, 70-73, 77, 78, 85, 88, 90-99, 101-106 and 109-117 over Davis (US 5,720,949) in view of Rapaport (US 5,505,948)

The primary reference, Davis, differs from the claimed invention at least in not teaching the application of a makeup, moisturizer and/or sunscreen after the application of first an acid dermatological liquid composition and then a neutralizing dermatological liquid composition, wherein the acid and neutralizing dermatological liquid compositions remain on the skin when the makeup, moisturizer and/or sunscreen is applied to the skin. Davis discloses the application of an acid composition and an effervescent composition to the skin in order to form a **cosmetic mask** with foaming action on the skin (column 1, lines 36-47). After a time, the cosmetic mask is removed from the skin by means of a scraper or cloth (column 1, lines 47-49). There would

have been no motivation to modify the method of Davis by applying a makeup, moisturizer and/or sunscreen when the **cosmetic mask**, composed of the acid composition and effervescent composition, still remains on the skin (e.g. see independent claims 44 and 90), or the acid composition and effervescent composition of the **cosmetic mask** are not rinsed off from the skin (e.g. see independent claim 117), because the cosmetic mask would block the application of the makeup, moisturizer and/or sunscreen so that one would not get any benefit from the makeup, moisturizer and/or sunscreen. The secondary reference, i.e. Rapaport, does not teach the application of a makeup, moisturizer and/or sunscreen when a cosmetic mask is still on the skin or when the compositions forming the cosmetic mask have not been rinsed off the skin. Thus, applicant submits that it would not have been obvious to modify, according to the disclosures of Rapaport, the method of Davis by applying a makeup, moisturizer and/or sunscreen when the acid composition and effervescent composition, forming the cosmetic mask of Davis, remain on the skin or have not been rinsed off the skin. Therefore, all of the pending claims would not have been obvious over Davis in view of Rapaport.

The Office Action acknowledges that Davis does not teach applying a moisturizer, sunscreen or makeup composition after the treatment with the cosmetic mask (see page 7, lines 4-5, of the Office Action). The Office Action attempted to rely on Rapaport to remedy the deficiency of Davis. However, as explained below, the attempt failed.

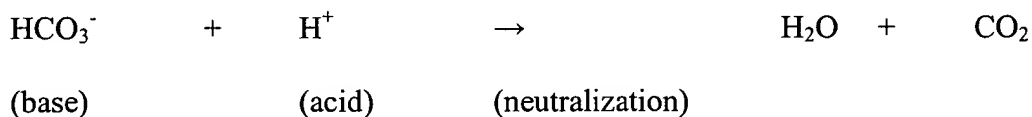
Rapaport discloses a skin-peeling composition containing low concentrations of peeling agents, wherein one of the peeling agents is acetone and other peeling agents can be alpha hydroxy acids (column 8, lines 14, 15, 33-37 and 53-61). The acetone strips the skin of oil and grease and thus allowing other peeling agents to penetrate deeper and be more effective in peeling the skin (column 8, lines 52-55). Acetone acts both as a peeling agent and a degreaser

increasing the effects of other peeling agents (column 8, lines 17-21). The low concentrations of the peeling agents in Rapaport's skin- peeling composition permit the peeling agents to be left on the skin of the user for a relatively extensive duration (column 8, lines 35-37). Such long-duration skin contact with the peeling agents achieves slow peeling effects which are not irritating or skin wounding in a manner perceptible by the user (column 8, lines 38-42).

The Office Action concluded that it would have been obvious to "have modified the skin treatment method of Davis by substituting the Rapaport acid peel/exfoliation composition for the acidic composition, as motivated by Rapaport, because 1) Davis teaches that it may be desirable to maintain an acidic composition on the skin for a gentle peel; 2) and the skilled artisan would have had a reasonable expectation of successfully achieving a gentle acid-peeling effects while the composition remains on the skin, as taught by Rapaport. Applicant respectfully disagrees and the reasons will be apparent below.

By the "acid composition", the Office Action meant the acid-containing composition (also called the gel activator composition in column 8, lines 50-53) used in the method of Davis. However, applicant submits that there would have been no motivation, "as taught by Rapaport", to replace the acid-containing composition of Davis with the skin-peeling composition of Rapaport in the method of Davis. This is because Rapaport specifically states that the skin-peeling composition of Rapaport "is intended to be left upon the skin of the user **without the neutralization** or removal required in the prior art" (column 8, lines 46-48) (emphasis added). However, the effervescent composition applied by Davis after the acid-containing composition does **neutralize** any acid previously applied. The effervescent composition used in the method of Davis contains an effervescent agent, such as a sodium, potassium or ammonium salt of bicarbonate or carbonate (column 4, line 36; column 7, lines 39-40), which **neutralizes** the acid

in the acid-containing composition to release carbon dioxide gas (column 7, lines 32-35; column 10, line 66 to column 11, line 1; column 11, lines 19-20). For instance, in Example 1 in column 12 of Davis, the neutralization reaction between lactic acid in the acid-containing composition and sodium bicarbonate in the effervescent composition can be shown schematically below (sodium bicarbonate ionizes to form bicarbonate ions and the lactic acid ionizes to form hydrogen ions, which hydrogen ions are **neutralized** by the bicarbonate ions in a reversible reaction driven to completion by the release of carbon dioxide gas).



Thus, according to Rapaport, a person of ordinary skill in the art would not have been motivated to replace the acid-containing composition in the method of Davis with the skin-peeling composition of Rapaport to be followed by the application of the effervescent composition of Davis. This is because the bicarbonate or carbonate salt in the effervescent composition of Davis will neutralize the alpha hydroxy acids in the skin-peeling composition of Rapaport. Rapaport's skin-peeling composition is intended to be used **without neutralization**. Following the teaching of Rapaport, the person of ordinary skill in the art would have used Rapaport's skin-peeling composition alone, not followed by the application of the effervescent composition of Davis. Thus, there would have been no desirable reason for the person of ordinary skill to combine the teachings of Davis and Rapaport. This is one of the reasons why claims 10-15, 28, 29, 33-36, 40, 43, 44, 47, 49, 50, 70-73, 77, 78, 85, 88, 90-99, 101-106 and 109-117 would not have been obvious over Davis in view of Rapaport.

Another reason why the person of ordinary skill in the art would have not modified the method of Davis with the skin-peeling composition of Rapaport is that Rapaport requires the concentrations of the alpha hydroxy acid peeling agents in the skin-peeling composition of Rapaport to be low (column 8, lines 35-37). Even if the person would, for argument purposes, apply Rapaport's skin-peeling composition to the skin, followed by an application of Davis' effervescent composition, such a combination of the two compositions would defeat the purposes of Rapaport's skin-peeling composition and Davis' method. Rapaport requires the concentrations of the alpha hydroxy acid peeling agents in the skin-peeling composition to be low in order to permit the peeling agents to be left on the skin of the user for a relatively extensive duration (column 8, 35-37), but the application of Davis' effervescent composition would neutralize the alpha hydroxy acid peeling agents in Rapaport's skin-peeling composition stopping the skin-peeling action of Rapaport's composition. The function of Davis' effervescent composition in Davis' method is to provide bicarbonate or carbonate ions to react with the acid in Davis' acid-containing composition to release heat and carbon dioxide in order to obtain a foaming action to treat the skin (column 1, lines 43-47; column 7, lines 32-35). But if Davis's method is modified by replacing Davis' acid-containing composition with Rapaport's skin-peeling composition as asserted by the Office Action, insufficient amount of foaming action would be obtained due to the low concentrations of the alpha hydroxy acid peeling agents in Rapaport's skin-peeling composition. The function of Rapaport's skin-peeling composition and the function of Davis' effervescent composition are not compatible. Thus, contrary to the conclusion of the Office Action, the person of ordinary skill in the art would have not modified the method of Davis with the skin-peeling composition of Rapaport.

Even if, for argument purposes, it is assumed that the person of ordinary skill in the art were to modify the method of Davis by replacing the acid-containing composition of Davis with the skin-peeling composition of Rapaport, the modification would not arrive at the claimed methods. This is because Rapaport does not teach or suggest applying a moisturizer, sun screen and/or makeup when a cosmetic mask resulting from Rapaport's skin-peeling composition and Davis' effervescent (alkaline) composition still remains on the skin or without having been rinsed off from the skin in order to arrive at some of the embodiments of the claimed methods. In fact, Davis merely discloses that a moisturizer lotion or cream may be applied **before** the treatment with the cosmetic mask (column 2, lines 53-56). Davis does not teach or suggest applying the moisturizer after the treatment with the cosmetic mask while the cosmetic mask still remains on the skin or is not rinsed off from the skin. The fact that Davis merely discloses that a moisturizer lotion or cream may be applied **before** the treatment with the cosmetic mask (Davis being silent on applying the moisturizer lotion or cream **after** the treatment when the cosmetic mask still remains on the skin) shows that Davis recognized the undesirability of applying the moisturizer lotion or cream when the cosmetic mask still remains on the skin.

Applicant also disagrees with the Office Action's assertion that the cream mask of Davis is interchangeable with liquid compositions (see page 5, the last 5 lines, of the Office Action). This is because Davis discloses that the invention of Davis concerns a cosmetic mask product for application to the skin, in which the residue of the cosmetic mask is removed from the skin by means of a scraper or cloth (column 1, lines 35, 36 and 47-49). Davis requires both the acid-containing composition and the effervescent composition to be viscous, so that both compositions would remain on the face without dripping (column 3, lines 11-14 and 41-46;

column 4, lines 38-39). As a result, the cream mask of Davis is not interchangeable with liquid compositions.

Applicant also disagrees with the assertion in page 6, lines 1-3, of the Office Action that the motivation to make less viscous compositions to shorten the reaction time in Davis's method is found in column 11, lines 37-40, which teaches that viscosity of the compositions delays the time for complete reaction. Actually, column 11, lines 39-40, of Davis discloses that Davis requires the acid-containing composition and the effervescent composition to be viscous in order to permit contact of the skin with the acid component. Contrary to the assertion of the Office Action, there was no motivation for Davis to make less viscous compositions in Davis's method.

The Office Action states in page 6, the 3rd to 4th lines from the bottom, that "Davis clearly teaches that massaging lotion or cream compositions into the skin does not require removing the composition. See col. 1, lines 26-32." Actually, column 1, lines 26-32, of Davis merely describes the prior art in which products of the lotion or cream type are generally massaged into the skin and not removed. But this usage of products of the lotion or cream type in the prior art does not affect the non-obviousness of the methods of claims 10-15, 28, 29, 33-36, 40, 43, 44, 47, 49, 50, 70-73, 77, 78, 85, 88, 90-99, 101-106 and 109-117 over Davis in view of Rapaport. The key is not whether a lotion or cream in the methods of these claims is removed from the skin. The key is that there would have been no desirable reason or motivation, according to Davis in view of Rapaport, to apply a moisturizer, sun screen and/or makeup when the acidic and effervescent (alkaline) compositions still remain on the skin or without having been rinsed off from the skin in order to arrive at some of the embodiments of the claimed methods.

Withdrawal of the obviousness rejections of claims 10-15, 28, 29, 33-36, 40, 43, 44, 47, 49, 50, 70-73, 77, 78, 85, 88, 90-99, 101-106 and 109-117 over Davis in view of Rapaport is requested.

Applicant also respectfully traverses the obviousness rejection of claims 76, 100, 107 and 108 over Davis in view of Rapaport as applied to claims 10-15, 28, 29, 33-36, 40, 43, 44, 47, 49, 50, 70-73, 77, 78, 85, 88, 90-99, 101-106 and 109-117 above, and further in view of Linn (US 4,797,273), Hahn (US 5,804,203) and McAtee (US 5,811,111). The Office Action relies on Linn to teach octoxynol-9, Hahn to teach green tea extract and McAtee to teach pheoxyethanol in topical compositions. However, the teachings of Linn, Hahn and McAtee do not cure the deficiencies of Davis in view of Rapaport as discussed above. In particular, Linn, Hahn and McAtee do not teach applying sunscreen, moisturizer or makeup after the application of the cosmetic mask of Davis when the two compositions of Davis' cosmetic mask still remain on the skin or have not been rinsed off. Therefore, claims 76, 100, 107 and 108 should not have been rejected as obvious over Davis in view of Rapaport as applied to claims 10-15, 28, 29, 33-36, 40, 43, 44, 47, 49, 50, 70-73, 77, 78, 85, 88, 90-99, 101-106 and 109-117, and further in view of Linn, Hahn and McAtee.

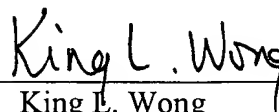
Conclusion

In view of the above reasoning, applicant contends that the application is in a condition for allowance. The Examiner is urged to call the undersigned if there remains any minor issues that can be resolved with a telephone interview.

Respectfully submitted,

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